IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1520 OF 2000
IN
SUMMARY SUIT NO. 5402 OF 1998

Mr. Rajesh A. Jain .. Plaintiff
v/s.
Ashwin Vithaldas Raychana
and Anr. .. Defendants
AND
Smt. Seema P. Thakkar .. Applicant.

Mr. K.P. Jain for the petitioner.
M. Aiya i/b. S. Kulkarni and Co. for the Applicants.

CORAM: S.U. KAMDAR, J.

DATE : 17TH JANUARY, 2005.

P.C :

1. The present Chamber Summons has been taken out by the applicant for raising the attachment in respect of the flat bearing no.D/3, Avdhoot Co-op Hsg.Soc.Ltd, Jagdusha nagar, (Mini Plot), Ghatkopar (W), Mumbai-400 086 and the movables lying thereof. It has also been prayed that the warrant of attachment dated 22.12.1999 should be set aside. The plaintiffs is holding decree of Rs.1,30,000/- which has been passed in the present

suit and in respect of which the warrant of attachment has been levied. The applicant has produced before me the certified copy of the statement dated 15/7/1995 issued by the Bombay District Central Co-operative Bank Ltd, Jagdusha Nagar Branch, Bombay indicating payment in respect of the purchase of the said flat , the letter of the society dated 15/7/1995, share certificate, original maintenance receipt, Tax assessment of 1994-95, Books of Accounts showing the purchase of the said flat in her name. There is no serious dispute to the said document from the plaintiff/decree holder. In the light of the aforesaid, the attachment dated 22.12.1999 insofar as it pertains to flat D/3, Avdhoot Co-operative Housing Soc.ltd, Jagdusa Nagar (Mini Plot), Ghatkopar (W), Mumbai-400 086 is set aside and the attachment stands raised in respect of the said flat. The Sheriff is directed to hand over the possession of the said flat to the applicant herein. In respect of the movable properties lying thereof is concerned, it is an admitted position that the applicant is not residing in the suit flat and that her brother-in-law is residing therein who is the judgement debtor in the

present case. The applicant is not able to produce any evidence whatsoever in respect of the items of movables lying in the said flat. The applicant states that she does not press for prayer (a) insofar as movables are concerned. In view thereof, the movable lying in the said flat to be sold by Sheriff in execution of the decree in accordance with law. The Chamber Summons is disposed of accordingly. There shall be no order as to costs.

. The original documents produced by the Applicant is returned on her filing the Xerox copy of the said documents.

SD/-

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